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U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY DEPUTY CLERK

Civil Action
No. SA-15-CA-977-XR

§ § § § §

Section 2254(b) states "a writ of habeas corpus . . . shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State." The exhaustion doctrine is based on comity for state court processes and the principle that state courts should be given the first opportunity to correct alleged federal constitutional violations. *Rose v. Lundy*, 455 U.S. 509, 518, 102 S. Ct. 1198, 71 L. Ed. 2d 379 (1982). "[T]he federal claim must be fairly presented to the state courts . . . [so that] the state courts have had the first opportunity to hear the

claim sought to be vindicated." *Picard v. Connor*, 404 U.S. 270, 275-276, 92 S. Ct. 509, 30 L. Ed. 2d 438 (1971). To exhaust state remedies in Texas, a petitioner must present his claim to the Texas Court of Criminal Appeals by direct appeal or through a post-conviction writ application. *Richardson v. Procnier*, 762 F.2d 429, 431 (5th Cir. 1985).

The Texas Court of Criminal Appeals has not addressed Watkins' claims, and thus Watkins has not exhausted his State remedies. Watkins must exhaust his state remedies before seeking habeas corpus relief from this Court.

Accordingly, Respondent's Answer construed as a motion to dismiss is **GRANTED**, and Petitioner Watkins' § 2254 Petition is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state remedies. All other pending motions are **DENIED** as moot.

DATED: February **23**, 2016



XAVIER RODRIGUEZ
United States District Court